HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION No:23184 OF 2007

Dated: 2.11.2007

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Between:

T. Venkat Rao ..Petitioner

And

1. The Govt. of A.P., rep., by its
   Principal Secretary, Home Department,
   Secretariat, Hyderabad and others.
   ..Respondents

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HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION No:23184 OF 2007

ORDER: (per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition is filed by the petitioner challenging the order of the tribunal, dated 23.2.2007 in O.A.No.9129 of 2002.

The petitioner is the applicant before the Tribunal. He filed the O.A. seeking to declare the action of the 2nd respondent in confirming the orders of dismissal in C.No.153/PR/85, dated 12.8.1988 passed by the 3rd respondent vide orders in L.Dis.No.128/T3/98, dated 15.7.1998 and latest Govt. Memo dated 27.2.2001, without verifying the records as well as the orders of the tribunal in O.A.No.26862/90, dated 4.12.1997 as illegal and arbitrary and consequently, to direct the respondents to reinstate the applicant into service.

The tribunal having observed that as seen from the records, the applicant exhibited reprehensible conduct by creating nuisance while on a sensitive magazine guard duty, leveling false allegations of assault, against applicant's superior officers, besides unauthorized absence and there is no scope for leniency and it is not the case of the applicant that the charges levelled against him are not proved nor there is any malafides attributed against an individual, dismissed the O.A. Having aggrieved by the same, the applicant preferred the writ petition.

It is the contention of the learned Counsel for the applicant that in O.A.No.26862 of 1990, the tribunal has observed that dismissal from service is not justified and it is disproportionate to the gravity of the charge and the said aspect has not been properly considered and

apart from that, the applicant has not been permitted to prefer a further appeal to DG & IG. Though he filed an appeal before the 2nd respondent-but the 2nd respondent without properly appreciating the facts and without following observations of the tribunal, dismissed the appeal. It is further contended that challenging the said order of the 2nd respondent, the present O.A. was filed, but the tribunal without taking serious note of failure of the 2nd respondent in following the observations made by the Tribunal on the earlier occasion in the earlier O.A., has mechanically dismissed the present O.A., and therefore, the order of the tribunal is liable to be set aside.

On the other hand, the learned Government Pleader for Services contended that the tribunal has not decided the issue in the earlier O.A as to whether the punishment imposed is disproportionate to the gravity of the charge proved against the applicant and that the charges proved are grave in nature and the applicant cannot be exonerated and therefore, the tribunal is justified in dismissing the O.A.

On a perusal of the material available on record, it is apparent that the applicant in a drunken state created nuisance and exhibited reprehensible conduct and since 1975 onwards, his conduct is not well and previously he was imposed punishments. As can be seen from the material, it is apparent that in spite of punishments on the earlier occasion, the applicant did not mend his way. The tribunal has observed in the earlier O.A. only to examine as to whether the punishment of dismissal is proportionate to the gravity of the charge or not. But, it does not mean that the disciplinary has to take a lenient

view and impose lesser punishment. Therefore, We hold that the findings of the tribunal needs no interference and the writ petition is devoid merits and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

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Justice T. Meena Kumari

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Justice G.Chandraiah

Date:2nd November, 2007
Nn/Gurc.

HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION No:23184- OF 2007

(Order delivered by the Hon’ble Smt. Justice T. Meena Kumari)

02/11/2007

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